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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,589	03/08/2002	John Sykes	5570-4	7622

7590

02/12/2003

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EXAMINER

ELOSHWAY, CHARLES R

ART UNIT

PAPER NUMBER

3751

DATE MAILED: 02/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/070,589

Applicant(s)

SYKES, JOHN

Examiner

Charles R. Eloshway

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The IDS filed 6/3/02 does not include a copy of EP A 0396039, the document cited in the IPER as novelty-defeating with respect to certain of the claims. Examiner has been unable to obtain a copy of the reference. Applicant is required to provide a copy in response to this action.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the features recited in claims 16-18 must be shown or else canceled from the claims. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite as to whether the invention is simply an apparatus for use with a toilet or urinal facility and/or an associated fixture in the facility or the combination of the facility/fixture and the apparatus. By its terms, the claim is limited to the apparatus, but certain of the dependent claims, e.g., claim 4, further limit the facility or fixture, giving rise to ambiguity as to the intended scope of claim 1. Claim 1 will be interpreted as if the toilet or urinal facility/fixture is included.

Claims 6 and 9 are indefinite because the terms "the video and/or audio data" or "material" lack antecedent basis in claim 1.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-10, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lowe et al. in view of Roach, Ort, Lakin, and White, Jr. et al.

Regarding claim 1, Lowe teaches a system for monitoring use of a facility for advertising purposes, the system including a "screen" (42), a "sensor" (50), and "memory means" (60, 61; see col. 12, lines 56-59). Lowe does not specifically disclose the use of the system with a toilet or urinal facility/fixture. It is well known, however, to advertise in conjunction with a toilet or urinal facility/fixture, as evidenced by Roach, Ort, Lakin and White. It would have therefore been obvious, in view of the Roach, Ort, Lakin and White teachings, to adapt the Lowe system for use in conjunction with a toilet or urinal facility/fixture to enable advertising/monitoring at such location.

Regarding claims 2 and 3, it would have been obvious in view of the Lowe teachings to integrate the screen into the fixture with which it is associated or to make it separate

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therefrom as a matter of design choice in deciding whether to use the system for retrofit or original installations.

Regarding claim 4, it is well known that urinal fixtures have collection areas, a drain, and a wall. As such, one would have expected a urinal having the Lowe system to have a collection area, drain and wall.

Regarding claim 5, it is well known that bathrooms having multiples toilets or urinals have corresponding "bays." To provide each such "bay" with a Lowe advertising system would have thus been obvious.

Regarding claims 6 and 9, Lowe teaches the display of audio or video data from a storage medium in response to sensing the user. See col. 12, lines 16-19 and 48-52.

Regarding claim 7, Lowe teaches that the "material to be displayed" is transmitted from a remote location. See col. 12, lines 59-61.

Regarding claim 8, Lowe does not specifically disclose that the system stores data indicating the number of detections made in a predetermined time. However, given that the Lowe system is used to monitor advertising usage (see, e.g., col. 4, lines 11-46), one of skill in the art would have understood that counting the number of times a user accesses a certain advertisement

within a certain period of time would have been part of the monitoring contemplated by Lowe.

Regarding claim 10, Lowe suggests that the sensor should be located in proximity, i.e., "adjacent," to the "screen." See col. 9, lines 46 et seq.

Regarding claim 19, the Lowe display is activated via the sensor.

Regarding claim 20, a person may participate in a game after activating the Lowe system, participating in a game including, e.g., counting lines on a wall.

7. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lowe et al. in view of Roach, Ort, Lakin and White, Jr., et al. as applied to claim 1, and further in view of Horan et al.

Horan teaches that proximity or pressure operated sensors may be used in conjunction with an electronically operated toilet system to sense the presence of a user. See Horan, col. 3, lines 25-31. In view of Horan, it would have been obvious to adapt a toilet or urinal facility/fixture incorporating the Lowe system to have a proximity or pressure sensor on or around the facility/fixture to sense the presence of a user and thus activate the system.

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8. Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lowe et al. in view of Roach, Ort, Lakin and White, Jr. et al. as applied to claim 1 above, and further in view of Butts.

Butts teaches that a urine-conductive sensor may be used in conjunction with a urinal or toilet facility/fixture to sense when a user has urinated and thus activate an electronic system. In view of Butts, it would have been obvious to adapt a toilet or urinal facility/fixture incorporating the Lowe system to have a proximity sensor on or around the facility/fixture to sense the presence of a user and thus activate the system.

Regarding claim 14, it would have been obvious to adapt the Butts sensor to detect only urine and not water if it was to be used in a flushing-type urinal, so as to prevent the system from activating in the absence of urine, i.e., a user being present.

9. Claims 16 and 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lowe et al. in view of Roach, Ort, Lakin and White, Jr. et al. as applied to claim 1 above, and further in view of Allen et al.

Regarding claim 16, it is well known that toilet or urinal facilities commonly have sinks associated therewith. Allen teaches the use of proximity sensors located on or above a sink for operating a variety electronic sink systems. It would have

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been obvious to adapt a toilet or urinal facility/fixture having a sink and incorporating the Lowe system to have a proximity sensor on or around the sink to sense the presence of a user and thus activate the system.

Regarding claim 18, given the Allen teaching locating sensors at a variety of locations about the sink, including one (34) where a mirror is usually located, it would have been obvious to locate the sensor in a mirror to hide it from view.

10. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lowe et al. in view of Roach, Ort, Lakin, White, Jr. et al. and Allen et al. as applied to claim 16 above, and further in view of DE A 3822098.

DE '098 teaches that a sink proximity sensor may also sense the use of water from the taps. See abstract. It would have thus been obvious to adapt the sink-located sensors suggested by Allen et al. to enable the sensing of water emitted from the taps as a backup measure to ensure proper operation.

Prior Art

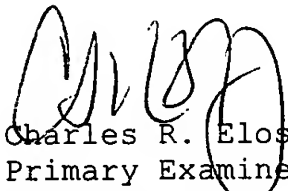
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other references cited teach various advertising systems or facilities having features common to the disclosed invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles R. Eloshway whose telephone number is (703) 308-0104. The examiner can normally be reached on Monday-Thursday, 7AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (703) 308-2580. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7766 for regular communications and (703) 308-7766 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0975.



Charles R. Eloshway
Primary Examiner
Art Unit 3751

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February 9, 2003